

REMARKS

Claims 1-7, 9, 10 and 14-16 are pending in the application and these claims are rejected.

Claims 1-7, 9, 10 and 14-16 are amended. Claims 1, 9-10 and 14-15 are amended to remove the word “derivative” and add the word “salt”. Support for these amendments can be found on page 5, lines 33-37 of the specification. Claims 1 and 16 are amended to remove the word “general” and to remove the “hydrogen” substituent from the definition of R13.

Claims 2-7 are amended to include pharmaceutically acceptable salts. Support for these amendments can be found on page 5, lines 33-37 of the specification.

Claim 16 is amended to remove solvates from the claim.

Claims 10 and 14-15 are further amended as described below.

Applicants’ response to the Examiner’s rejection is as follows.

Claim Rejections – 35 U.S.C. §112

The Examiner has rejected claim 15 under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for the treatment of bacterial infection, allegedly does not reasonably provide enablement for the treatment of microbial infection. According to the Examiner, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

Solely in order to expedite prosecution of this application, Applicants have amended claim 15 to remove the word “microbial” and add the words “a bacterial”. Support for this amendment can be found on page 12, lines 39-42 of the specification. In light of this amendment, Applicants respectfully request that the rejection of claim 15 under 35 U.S.C. §112, first paragraph, be reconsidered and withdrawn.

The Examiner has rejected claim 10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that it is not clear what is encompassed by the terminology “groups convertible to” (all occurrences). The Examiner also states that it is not clear from claim 10 how the resultant compound of formula (I) is converted into pharmaceutically acceptable derivatives.

Applicants have amended claim 10 to remove the terminology “groups convertible to” and to add the terminology “protected forms of”. Support for this amendment can be found on page 14, lines 23-33 and 38-41 of the specification. Applicants have also amended claim 10 to replace the word “derivative” with the word “salt”. Support for this amendment can be found on page 5, lines 33-37 of the specification. In light of these amendments, Applicants respectfully request that the rejection of claim 10 under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

#### Claim Rejections – 35 U.S.C. §102

The Examiner has rejected claims 1-7, 9, 14 and 15 under 35 U.S.C. §102(a) as being anticipated by Ma et al. (US2002/0019355). Applicants respectfully traverse this rejection.

Applicants submit that the disclosure of Ma does not anticipate claims 1-7, 9, 14 and 15 of the instant application. In the instant claims, R1 (i.e.  $\text{OC(O)(CH}_2\text{)}_m\text{XR7}$ ) corresponds to R3 of Ma wherein R3 is  $\text{-OC(O)R9}$ . Applicants assert that R9 of Ma is different from the corresponding XR7 group of the instant claims. In Ma, R9 can be “hydrocarbon selected from...C<sub>1</sub>-C<sub>12</sub> alkyl...wherein said hydrocarbon is optionally substituted with one to three substituents selected from....aryl, substituted aryl, heteroaryl, substituted heteroaryl, and **heterocycloalkyl**.” (Paragraph 0041) It should be noted that the R9 heterocycloalkyl group is not substituted. (Paragraph 0041 and 0049) In the instant claims, when X is a heterocyclic group, X must still be substituted by R7. When X is a chain (i.e.  $\text{-U(CH}_2\text{)}_k\text{Z-}$ ), the R7 heterocyclic group must be substituted by R13. Thus Ma does not anticipate the instant claims because R9 of Ma is different from the corresponding XR7 group of the instant claims.

In light of the above remarks, Applicants respectfully request that the rejection of claims 1-7, 9, 14 and 15 under 35 U.S.C. §102(a) be reconsidered and withdrawn.

#### Claim Rejections – 35 U.S.C. §103

The Examiner has rejected claims 1-7, 9, 10 and 14-16 under 35 U.S.C. §103(a) as being unpatentable over Alihodzic et al. (US2005/0080025 A1) in view of Ma et al. (US2002/0019355). Applicants respectfully traverse this rejection.

Applicants submit that the rejection is improper because Alihodzic et al. (US2005/0080025 A1) is not prior art against the instant application. The instant application is entitled to the effective filing date of October 31, 2002. Alihodzic et al. has an effective

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U.S. filing date of November 13, 2002 which is the earliest date on which Alihodzic et al. qualifies as prior art in the U.S. (under 35 U.S.C. § 102(e)).

Given that the rejection is improper, Applicants respectfully request that the rejection of claims 1-7, 9, 10 and 14-16 under 35 U.S.C § 103(a) be reconsidered and withdrawn.

Conclusion

This reply is intended to further this case to allowance by addressing each ground of rejection in the Examiner's Office Action. Reconsideration of this application is respectfully requested. Authorization is hereby granted to charge any fees which may be required by this paper to Deposit Account No. 19-2570. Should the Examiner have any questions regarding this application, the Examiner is invited to call the undersigned agent at the number given below.

Respectfully submitted,



Laura K. Madden  
Agent for Applicants  
Registration No. 48,352

GLAXOSMITHKLINE  
Corporate Intellectual Property - UW2220  
P.O. Box 1539  
King of Prussia, PA 19406-0939  
Phone (610) 270-7339  
Facsimile (610) 270-5090  
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